

<b>Notice of Allowability</b>	Application No.	Applicant(s)
	09/939,816	FARBER, ELLIOTT
	Examiner	Art Unit
	Shahnam Sharareh	1617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 10/6/2004.
2.  The allowed claim(s) is/are 48,50-55,59-62,66-69 and 73-76.
3.  The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date 10/27/2004.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

  
**RUSSELL TRAVERS**  
 PRIMARY EXAMINER  
 GROUP 1200

### **EXAMINER'S AMENDMENT**

An extension of time under 37 CFR 1.136(a) is required in order to make an examiner's amendment, which places this application in condition for allowance. During a telephone conversation conducted on October 27, 2004, Mr. Slaven requested an extension of time for one MONTH(S) and authorized the Director to charge Deposit Account No. 50-1349 the required fee of \$55 for this extension and authorized the following examiner's amendment. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

Claim 48, line 1, insert –system—after the “applicator.”

Claim 50, line 1, insert –system—after the “applicator.”

Claim 51, line 1, insert –system—after the “applicator.”

Claim 52, line 1, insert –system—after the “applicator.”

Claim 53, line 1, insert –system—after the “applicator.”

Claim 53, line 1, change the dependency from claim 51 to claim 52.

Claim 54, line 1, insert –system—after the “applicator.”

Claim 55, line 1, insert –system—after the “applicator.”

Claim 59, line 1, insert –system—after the “applicator.”

Claim 60, line 1, insert –system—after the “applicator.”

Claim 61, line 1, insert –system—after the “applicator.”

Claim 62, line 1, insert –system—after the “applicator.”

Claim 66, line 1, insert –system—after the “applicator.”

Claim 67, line 1, insert –system—after the “applicator.”

Claim 68, line 1, insert –system—after the “applicator.”

Claim 69, line 1, insert –system—after the “applicator.”

Claim 73, line 1, insert –system—after the “applicator.”

Claim 74, line 1, insert –system—after the “applicator.”

Claim 75, line 1, insert –system—after the “applicator.”

Claim 76, line 1, insert –system—after the “applicator.”

Claims 48, 50-55, 59-62, 66-69, 73-76 are allowed.

The following is an examiner’s statement of reasons for allowance: the prior art does not teach or suggest a flexible applicator system containing the oil-in-water emulsion of instant generic claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shahnam Sharareh whose telephone number is 571-272-0630. The examiner can normally be reached on 8:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan, PhD can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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